

Third, as part of the transition to first-inventor-to-file, the America Invents Act eliminates costly interference proceedings as the method for determining the right to a patent between competing inventors in favor of a derivation proceeding. Under current law, before enactment of the American Invents Act, when more than one application claiming the same invention is filed, the patent is given to the applicant who has the resources to prove their claim to the invention. This costly proceeding is almost always won by larger corporations. A derivation proceeding is far simpler and does not require meticulous notes by the inventor, which gives large corporations an advantage, because the key date is the date of application.

Finally, the legislation will improve patent quality overall. Roughly half of all patents in litigation have claims invalidated. When there are too many patents out there that are not able to withstand court scrutiny, it leads to a more difficult climate for small businesses to license their inventions and raise capital from investors. By improving our patent system, we can provide confidence that when a patent is granted, it is of high quality, and inventors can rely on that.

The New York Times editorialized last week that today, "The patent system is too cumbersome, and it doesn't protect the small inventor. The America Invents Act is a smart reform." Indeed, the legislation is crucial to fulfilling the promise that we make to small businesses and independent inventors that if they put in the hard work, the United States is the place where a great invention will be rewarded. I thank the 95 Senators who voted in favor of Senate passage of the America Invents Act and look forward to continuing our work with Chairman SMITH the House of Representatives to get the legislation to the President's desk without unnecessary delay. We tried to make sure that patent reform in the America Invents Act helps small businesses and increases their ability to serve as an engine for economic growth and good jobs here in America.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Ms. LANDRIEU. Mr. President, I ask unanimous consent to proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, it is my understanding that we are in morning business.

The PRESIDING OFFICER. The Senator is correct.

DEBIT CARD SWIPE FEES

Mr. DURBIN. This week, we are considering legislation on the Senate floor that affects small businesses. I want to talk about another issue very important to small businesses; that is, the topic of interchange fees, also known as swipe fees.

Last week, nearly 200 small businesses came to Washington, DC, from Illinois and from all across America. They came to stand up in support of the reform of interchange fees, swipe fees, that Congress passed last year. They came to stand up to the major credit card companies, Visa and MasterCard, and the \$13 trillion banking industry that is doing everything in its power to reverse this reform.

We all know small businesses are the key to our economy and its future. We need for them to be able to grow, to hire more workers, and serve their customers well. But debit card swipe fees set by Visa and MasterCard on behalf of their big bank allies are crushing many small businesses.

Back in 2009, the banks made over \$16 billion per year in debit swipe fees, about \$1.3 billion per month. Now, \$16 billion may not sound like a lot of money when you compare it to the \$20.8 billion that the New York State comptroller said was paid out in Wall Street bonuses to major financial institutions just last year, but it is a huge amount when it affects small business.

For most Americans on Main Street, \$16 billion in swipe fees is quite a lot. This money comes out of the pockets of small business owners across America and out of the pockets of their customers, who pay higher prices for gas and groceries as a result.

According to data from the Federal Reserve and the Nilson Report, over half of all debit interchange fees—more than \$8 billion per year—goes to just 10 giant banks.

What it boils down to is this: Some who are pushing for a delay in this reform are literally offering a handout of \$16 billion mainly to the biggest banks in America.

The swipe fee system does not have transparency and has no competition. The bottom line is that the current debit card system in this country is a broken market. Ask any retailer, large or small, hotel owner, restaurant owner, convenience store owner, gas station, ask them what bargaining

power they have when it comes to the amount they are charged for the use of a debit card, and the answer is, none. Ask them how much is being paid in each transaction. And the answer is, it is secret. Now, is that how you would build an economy, with no competition and no transparency? That is exactly what is going on with the duopoly of Visa and MasterCard imposing these fees on small businesses.

The banks and card companies are sending an army of lobbyists to Congress to undo the reform Congress passed last year. There are hundreds of bankers swarming over Capitol Hill this week. Several Members who have never supported an interchange reform in the first place have introduced legislation to delay that reform that we passed. I am sorry to say that this plays right into the banking industry's effort to avoid accountability.

I want my colleagues to know that small businesses are going to tell their side of the story too.

Todd McCracken is the president of the National Small Business Association. He came to Capitol Hill last week, and this is what he said:

Small businesses aren't trying to do away with credit and debit cards, we just want them to play by the rules. Small businesses have been at the mercy of these large banks for years, and the swipe fee reforms merely inject fairness and transparency into a market that has been dictated by a handful of companies for years.

Hundreds of small businesses also submitted formal comments to the Federal Reserve in support of reform. Those comments are posted on the Federal Reserve's Web site. I would like to read a few of those from my home State of Illinois.

Nolan Williamson runs a flower shop. It is called Jerry's Flower Shoppe in Carbondale, IL. Carbondale, IL, in southern Illinois, is the home of Southern Illinois University. Here is what Nolan wrote to the Federal Reserve:

In 1964, Jerry's Flower Shoppe opened, and for 35 years I have been a partner in the business. We are located in a university town, and our business depends greatly on the university. Since the university budget is down and they are not spending, our business is suffering.

We have streamlined our business as much as possible. We were forced to lay off one employee for a while, then brought her back at reduced pay and reduced hours. As a retail business, we have no choice but to accept credit and debit cards. We had to increase prices to cover the high interchange card fees. Even with a price increase, these high card fees are eating away our profits.

Nolan concluded by saying:

Help our struggling business and other small businesses around the country. Reduce our swipe fees to 12 cents as proposed.

He alludes to the fact that when the Federal Reserve took a look at the actual interchange fee being charged for the use of a debit card, they estimated the average to be over 40 cents per transaction, which is more than 1.1 percent of the value of each transaction. The actual cost? Less than 10 cents. So what the credit and debit